UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/749,940	12/31/2003	Bojan Zuzek	293-002	6663

27776   7590   03/24/2009
WARD & OLIVO
SUITE 300
382 SPRINGFIELD AVENUE
SUMMIT, NJ 07901

EXAMINER
MOLINA, ANITA C

ART UNIT	PAPER NUMBER
3626	

MAIL DATE	DELIVERY MODE
03/24/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)
	10/749,940	ZUZEK ET AL.
	Examiner	Art Unit
	ANITA MOLINA	3626

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *31 December 2003*.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-21* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-21* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.

5)☐ Notice of Informal Patent Application

6)☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 101

1.   35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

1.   Claims 1-14 and 20-21 are rejected under 35 U.S.C. 101 based on Supreme Court precedent, and recent Federal Circuit decisions, the Office's guidance to examiners is that a § 101 process must (1) be tied to a particular machine or (2) transform underlying subject matter (such as an article or materials) to a different state or thing. In re Bilsky, 88 U.S.P.Q.2d 1385 (Fed. Cir. 2008), Diamond v. Diehr, 450 U.S. 175, 184 (1981); Parker v. Flook, 437 U.S. 584, 588 n.9 (1978); Gottschalk v. Benson, 409 U.S. 63, 70 (1972); Cochrane v. Deener, 94 U.S. 780,787-88 (1876).

2.   An example of a method claim that would <u>not</u> qualify as a statutory process would be a claim that recited purely mental steps. Thus, to qualify as a § 101 statutory process, the claim should positively recite the particular machine to which it is tied, for example by identifying the apparatus that accomplishes the method steps, or positively recite the subject matter that is being transformed, for example by identifying the material that is being changed to a different state.

3.   Here, applicant's method steps, fail the first prong of the new Federal Circuit decision since they are not tied to a particular machine and can be performed without the use of a particular apparatus. Furthermore, the method steps fail to transform underlying subject matter to a different state or thing. The mere construction of non-functional descriptive material (i.e., a data analysis) is not a transformation because

data is not statutory subject matter. Thus, claims 1-14 and 20-21 are non-statutory

since they are not tied to a particular machine and they do not transform underlying

subject matter to a different state or thing.

Claim Rejections - 35 USC § 112

2.   The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly
> claiming the subject matter which the applicant regards as his invention.

3.   Claim 17 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite

for failing to particularly point out and distinctly claim the subject matter which applicant

regards as the invention. It is unclear how a "geo-mapping environment" can be used

for backup storage, nor is the term "geo-mapping environment" defined or explained in

the specification. For the purposes of examination, the claim will be interpreted to refer

to as a geographic mapping environment.

Claim Rejections - 35 USC § 102

4.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that

form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –

> (e) the invention was described in (1) an application for patent, published under section 122(b), by
> another filed in the United States before the invention by the applicant for patent or (2) a patent
> granted on an application for patent by another filed in the United States before the invention by the
> applicant for patent, except that an international application filed under the treaty defined in section
> 351(a) shall have the effects for purposes of this subsection of an application filed in the United States
> only if the international application designated the United States and was published under Article 21(2)
> of such treaty in the English language.

5.   Claims 1-13, 15-17 and 20-21 are rejected under 35 U.S.C. 102(e) as being

anticipated by US 2003/0061096 to Gallivan et al, hereinafter, Gallivan.

As per claim 1, Gallivan teaches **a method for transforming raw transactional**

data comprising the steps of:

-**accessing said data via a communication network from at least one**

external source (see: paragraph 34);

-**formatting said data, wherein said formatting includes cleaning and**

validating said data (see: paragraphs 38 and 135);

-**longitudinally linking said data** (see: paragraph 38);

-**compressing said data** (assuming 0% compression);

-**storing said data in at least one database** (see: paragraphs 38-39);

-**extracting said data from said at least one database for analysis** (see:

paragraph 44); and

-**displaying results of said analysis** (see: paragraphs 44 and 127).

As per claim 2, Gallivan teaches the claimed method, **further comprising the**

step of creating interval interpretations of data representing activity over time

(see: paragraph 113).

As per claim 3, Gallivan teaches the claimed method, **wherein said data is**

pharmaceutical transactional data (see: paragraph 42).

As per claim 4, Gallivan teaches the claimed method, **wherein said**

communication network is selected from the group consisting of an internet, an

intranet, a wireless network, a cellular network, a wide area network, a local area

network, a virtual private network, a token ring network, and a dial-up network

(see: paragraph 34).

As per claim 5, Gallivan teaches the claimed method, **wherein said**

compressing comprises the steps of:

(a) **inserting said data into storage tables** (see: paragraph 46);

(b) **sorting and evaluating said data** (see: paragraph 46);

(c) **performing calculations on said data** (see: paragraphs 46 and 84); and

(d) **creating interval tables of said data** (see: paragraph 61 and Table 1).

As per claim 6, Gallivan teaches the claimed method, **wherein said analysis is**

performed based on end-user specifications (see: paragraph 44).

As per claim 7, Gallivan teaches the claimed method, **wherein said analysis is**

used for market studies (see: abstract).

As per claim 8, Gallivan teaches the claimed method, **wherein said market**

studies comprise Therapy Area and Single Class (see: paragraphs 92-96).

As per claim 9, Gallivan teaches the claimed method, **wherein said**

compressing retains all information represented by said raw transactional data

(see: claim 1, assuming 0% compression).

As per claim 10, Gallivan teaches the claimed method, **wherein said analysis**

includes data summarization (see: paragraph 129).

As per claim 11, Gallivan teaches the claimed method, **wherein said results are**

delivered to an end-user via a communication network (see: Figure 2).

As per claim 12, Gallivan teaches the claimed method, **wherein said data and said results are continuously updated over an extended period of time** (see: paragraph 36).

As per claim 13, it is rejected for the same reason set forth for claim 10.

As per claim 15, Gallivan teaches **an apparatus for transforming raw transactional data comprising**:

-at least one communication network for transfer of said data (see: paragraph 34);

-a data extraction, transformation and loading tool (see: Figure 2, paragraphs 38 and 44);

-at least one database for storage of said data (see: paragraph 46);

-at least one data processor for processing and compressing said data (see: paragraph 46);

-a plurality of system applications for running scripts, wherein said scripts perform data analysis, extraction, transformation and loading (see: Figure 2, paragraphs 38-44); and

-a web browser for displaying results of said data analysis (see: paragraph 122).

As per claim 16, Gallivan teaches the claimed apparatus, **wherein said communication network comprises at least one communication device, a plurality of data gathering devices, at least one communication link, and at least one network protocol** (see: Figure 2).

As per claim 17, Gallivan fails to teach the claimed apparatus, **further comprising a geo-mapping environment for backup storage** (see: Figure 13C).

As per claim 19, it is rejected for the same reasons set forth for claim 7.

As per claim 20, Gallivan teaches **a method for compressing data comprising the steps of**:

-accessing raw data from at least one external source (see: paragraph 34);

-formatting said raw data, wherein said formatting includes cleaning and validating (see: paragraphs 38 and 135);

-storing said raw data into tables (see: paragraphs 38-39);

-creating intervals from said raw data and storing said results into tables (see: paragraph 113); and

-extracting market studies from said results for analysis (see: abstract).

As per claim 21, it is rejected for the same reasons set forth for claim 12.

Claim Rejections - 35 USC § 103

6.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

7.   Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over US 2003/0061096 to Gallivan in view of US 2002/0165736 to Tolle et al, hereinafter, Tolle.

As per claim 14, Gallivan fails to specifically teach the claimed method, **wherein said transactional data remains anonymous**. Tolle teaches analyzing de-identified patient prescription records (see: abstract). It would have been obvious to one of ordinary skill in the art to include in the pharmaceutical data analysis of Gallivan, the de-identification of data as taught by Tolle because the claimed invention is merely a combination of old elements, and in the combination, each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

8.   Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over US 2003/0061096 to Gallivan in view of US 7,191,183 to Goldstein.

As per claim 18, Gallivan fails to teach the claimed apparatus, **wherein said displayed results are in the form of applets**. Goldstein teaches a browser based graphical user interface for creating reports and analyzing data (see: column 6, lines 6-9). It is obvious to one of ordinary skill in the art to use an applet in a browser. It would have been obvious to one of ordinary skill in the art to include in the pharmaceutical data analysis of Gallivan, the browser as taught by Goldstein because the claimed invention is merely a combination of old elements, and in the combination, each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ANITA MOLINA whose telephone number is (571)270-3614. The examiner can normally be reached on Monday through Friday 8am to 5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, C. Luke Gilligan can be reached on 571-272-6770. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/A. M./
Examiner, Art Unit 3626
03/18/2009

/C. Luke Gilligan/
Supervisory Patent Examiner, Art Unit 3626